

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN BRENT R. CROMLEY**, on January 31, 2005
at 3:00 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Brent R. Cromley, Chairman (D)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Duane Grimes (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Trudi Schmidt (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Rita Tenneson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 297, 1/26/2005; SB 275,
1/26/2005
Executive Action: SB 137; SB 153; SB 156; SB 203;
SB 249

EXECUTIVE ACTION ON SB 137

SEN. CROMLEY presented **SB 137**, which had been referred back to Public Health Committee after second reading. He told the Committee the amendment he had presented, SB013707.adn, which takes out the exclusion of ear piercing from licensure, was passed by Committee, but didn't get into the second reading bill.

Motion: **SEN. GRIMES** moved to reconsider SB 137.

Motion/Vote: **SEN. CROMLEY** moved that SB 137 BE AMENDED WITH SB0137.ADN. Motion carried unanimously by voice vote.

Motion/Vote: **SEN. GRIMES** moved that SB 137 SECOND READING DO PASS AS AMENDED. Motion carried unanimously by voice vote.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.4}

HEARING ON SB 297

Opening Statement by Sponsor:

SEN. JERRY BLACK (R), SD 14, opened the hearing on SB 297, Marriage and family therapy licensure.

SEN. BLACK told the Committee SB 297 provides protection to families in marriage situations by providing regulation and oversight by a Board. Montana allows marriage and family therapists to be licensed as social workers and/or professional counselors. The bill requires a masters degree or Ph.D. in marriage and family therapy, plus two years of supervised experience by a licensee. **SEN. BLACK** gave the Committee information regarding marriage and family therapists.

EXHIBIT(phs24a01)

EXHIBIT(phs24a02)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.1}

Proponents' Testimony:

Elaine Maronick, President, Montana Association for Marriage and Family Therapy, is a family therapist, with a private practice in Helena. She told the Committee marriage and family therapy is recognized by the federal government and the National Institute of Mental Health, as one of five core mental health disciplines. Other professions listed with them are psychiatry, psychology, social work, and psychiatric nursing.

Barbara Harrold, entered a Master's program at Montana State University in Marriage and Family Therapy (MFT). She went to Utah for a Ph.D. in MFT. She couldn't come back to Montana and practice as a licensed MFT because of licensing.

Carol Chisholm, Marriage and Family Therapist, has been practicing for 20 years in Helena. She went outside the State for her training. This profession is unique, and she is asking that they be acknowledged in Montana. They also have systemic training, which teaches people how to reduce anxiety and depression. They work with a relational system. This makes their profession different, and is why they want to be identified as a group who works in a unique way with people.

{Tape: 1; Side: A; Approx. Time Counter: 13 - 17.4}

Scott Davies, Army Chaplain, is a full-time mental health practitioner for Stillwater and Carbon counties. The army sent him to get a MFT degree in 1990. He has practiced MFT in Kansas, Alaska, North Carolina, Texas and Germany and supervised chaplains in Germany and Belgium for three years. In Montana, he can't get licensed because there is no MFT licensing. There is an intensive educational process for MFTs which is not a part of the Social Worker's or Provisional Counseling Boards.

Mark Odell, Marriage and Family Therapist, has a Ph.D. in MFT and currently has a license for the State of Nevada. He is licensed in Montana as a Clinical Professional Counselor. He added that there is a need for licensure of MFTs in the State, as 46 other states regulate the practice. It is one of the five full mental health disciplines recognized by the federal government. Counseling is not a recognized profession, according to the federal government. He added that MFT systemic treatment alleviates a number of individual and relational mental health concerns from childhood, as well as parenting difficulties, Attention Deficit Disorder (ADD), addiction, substance abuse, and chronic mental illness.

{Tape: 1; Side: A; Approx. Time Counter: 17.4 - 27}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 1.6}

Don Hargrove, Montana Association of Marriage and Family Therapists, has been helping the MFTs with the licensing procedure. He pointed out the number of Boards overlooking the licensure and the number of complaints they treat. These Boards safeguard public health, safety and welfare of the citizens in the State of Montana and protect the public from being misled by unscrupulous, incompetent and unauthorized persons. MFT has a well-defined discipline, with detailed objectives, but are

currently excluded from licensure in Montana. They are able to practice under titles not pertaining to their profession. MFT's can go to other states to practice, but MFT's from other states can't come here to practice. This is why the national organization would like to get all fifty states on board, Montana being the 47th state in the legislative cycle. SB 297 allows MFTs to join social workers and counselors on the Board as minority members, therefore avoiding creation of a new Board.

{Tape: 1; Side: B; Approx. Time Counter: 1.6 - 7.2}

Opponents' Testimony:

Mary McHugh, Montana Chapter of the National Association of Social Workers, Montana Clinical Mental Health Council Association, a group of licensed professional counselors, said they view the bill as creating a separate profession out of something MFTs do as a specialty. She pointed out page 4, section 7, where subsection 1 does not prohibit other persons she represents from doing marriage and family counseling. She thinks this is a sub-field of counseling and social work. In Montana, they license physicians, but do not license sub-professions such as pediatric physicians, orthopedic physicians, etc. On page 4, the bill says it will allow the other professions to do family and marriage counseling, but will not let them use that title. She said social workers have the same type of training and degrees MFTs have, but felt the bill precluded the professions she represents from doing the same thing as MFTs.

Marty Wangen, representing the Montana Psychological Association, told the Committee they are opposing the bill because they believe no change is needed in the current mental health professional licensing category, and there is no need for setting up an additional category for MFTs. She spoke for Dr. Guy Bateman, saying he did not see another need for a specialty certification for treating specific problems in the mental health field. He said there are already three levels of licensure for primary mental health professionals in Montana, and more if you include physicians, psychiatric nurses, addiction counselors, etc. She read his testimony, which is included in the following tape count.

{Tape: 1; Side: B; Approx. Time Counter: 7.2 - 14.8}

Informational Testimony:

Lisa Addington, Bureau Chief of Health Care Licensing, Department of Labor and Industry, made herself available for questions.

Questions from Committee Members and Responses:

SEN. WEINBERG asked **Ms. Chisholm** if all family therapists subscribe to the summit paragon she had described. She answered that she couldn't speak for all of them, but the members of the American Association of Marriage and Family Therapy are all trained systemic therapists. Part of their orientation is to be a systems therapist. **SEN. WEINBERG** wanted to know if somebody with a Ph.D. in clinical psychology could pass the examination, if the bill was approved, to become a licensed MFT. **Ms. Chisholm** couldn't answer this and referred the question to **Mr. Odell** who told him the majority of MFTs would pass. He said that a standard Ph.D., DSW, MSW, or a graduate trained professional in mental health discipline would not do well on a MFT exam. The pass rate among students graduating from MFT programs is about 70 percent. The exam is put together by the American Association of MFT Regulatory Boards. It is a national examination, with 200 exam questions, and it is different every year. He didn't think most mental health professionals would fare well on it.

SEN. COBB asked **Mr. Odell** how the other 46 states do their licensing for MFTs, as he understood you couldn't be licensed in Montana under the current rules. **Mr. Odell** said you could be licensed as a professional counselor or social worker if you met their requirements. **SEN. COBB** wanted to know if licensed MFTs could be counselors now and **Mr. Odell** replied some could, but many others could not. In other states you have a variety of Boards pertaining to the different professions. Licensing MFTs would preclude them from saying they are a licensed MFT, but not preclude them from saying they do couple or family counseling.

SEN. GRIMES asked **Ms. Addington** whether, under Title 37, Section 37 1-318, someone doing marriage counseling would be in violation of practicing without a license. **Ms. Addington** told him currently they do not require licensing for MFTs, therefore anyone can call themselves a MFT. If the bill passed, that title would be a protected title under the law. You would have to have a license to be a MFT. **SEN. GRIMES** asked about the activity of an MFT. He thought there should be legal attention from the Department. **Ms. Addington** told him she could get a response from a staff attorney.

{Tape: 1; Side: B; Approx. Time Counter: 14.8 - 27}

SEN. CROMLEY asked **Dr. Harrold** about her studying out of state and not being able to practice as an MFT in Montana. **Dr. Harrold** replied she couldn't get licensed in Montana without applying for a license as a licensed clinical professional counselor (LCPC).

She would have to start at the bottom in the licensing process and establish herself as a licensed professional counselor. **SEN. CROMLEY**

understood she could not practice in the State of Montana as a MFT now. **Dr. Harrold** said she couldn't practice as anything, as she isn't licensed.

SEN. WILLIAMS wanted to know about the additional training she would need for LCPC licensure. **Dr. Harrold** wasn't sure but assumed they could require her to take more course work and another licensing exam, as well as verify her training and supervision. **SEN. WILLIAMS** inquired if anyone else present had taken the LCPC test. **Dr. Harrold** thought maybe **Ms. Chisholm** had.

Questioning continued at great length regarding differences in licensure and creating the MFT title throughout the bill.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 8.2}

Closing by Sponsor:

SEN. BLACK said only MFTs cannot be licensed in the State of Montana for their specific profession. They can only be licensed as social workers and professional counselors. They lose their identity, as well as time and education, in their field. They want to be included under the same licensure board, and be recognized for what they do. Regarding concerns that counselors cannot call themselves MFTs, he said they cannot do that now. This does not prevent counselors or social workers from continuing their practice with work they have done in the past. **SEN. BLACK** thanked the Committee and offered to work with them any way he could.

{Tape: 2; Side: A; Approx. Time Counter: 8.2 - 10.1}

HEARING ON SB 275

Opening Statement by Sponsor:

SEN. TRUDI SCHMIDT (D), SD 11, opened the hearing on **SB 275**, Revising voluntary genetics program; increasing fee on health insurance policies.

SEN. SCHMIDT explained that the fees, if the bill is passed, will go into a special State revenue account. The second part of the bill pertains to a change in the language and the genetic service provided by the State done by Shodair Children's Hospital.

Proponents Testimony:

Jack Casey, Administrator, Shodair Children's Hospital, Helena, spoke in support of **SB 275**. He gave a brief history of the genetics program and its beginning at Boulder River School and Hospital in the late 1960s and early 1970s. In 1976, the State of Montana asked Shodair to take over the program. Dr. Phil Pallister was retiring, and they needed a place for his work to continue. In addition to the contract and fees collected by Shodair, during their 29-year contract with the State, Shodair has provided over \$1,777,000 in private funds to the program since 1986. In 1985, HB 430 provided funding for the program with a fee of seventy cents from each Montana resident insured under any individual, group disability or health insurance policy on February 1 of each year. The fee is deposited to the general fund and set aside for the voluntary genetic program. Currently a person, having a family of four, would pay seventy cents, or \$2.80 a year. Shodair has not come in for an increase since 1991. **SB 275** is asking to increase the fee to \$1.00. He went on to explain what the fees are being used for. They are doing cancer genetic testing, and they want to invest in costly laboratory equipment.

EXHIBIT (phs24a03)

{Tape: 2; Side: A; Approx. Time Counter: 10.1 - 24.2}

Pep Jewell, Self, spoke in favor of the bill because of a family history of breast cancer. When her sister was diagnosed in Seattle with bracket 2, which gives people an 80 percent risk for breast cancer, her physicians recommended testing her mother, father and siblings. **Ms. Jewell,** and her family, were able to have the testing done at Shodair without a trip to Seattle. This saved her money by not having to take off work or pay expenses involved with a trip to Seattle.

Erin Faulkner, Self, spoke in support because of problems she had since childhood that had not been properly diagnosed. At the age of 22, she had been diagnosed with arthritis. When she went to Shodair, they diagnosed her, within an hour, with Strickler Syndrome. She was able to get information from Shodair regarding how this was hereditary, and what effect it would have on her children. She had her daughter tested for Strickler syndrome at Shodair. Her daughter is now in treatment.

Maureen Leo, Self, mother of two boys, said she had an amniosentesis done when she was pregnant with her second son. Her son was missing part of his 18th chromosome. When she and her husband attended genetic counseling at Shodair they received

information and insight into their son's condition. They remain in Shodair's program to this day and highly recommend the genetics program.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 3.7}

Dr. John Johnson, Director of Genetics, Shodair Children's Hospital, is a board certified pediatrician and medical geneticist. He spoke on cancer genetics. He explained all cancer is genetic, which doesn't mean it is inherited, but multiple genetic changes occur in cells that eventually become cancer. He explained the environmental damage which can cause cancer. He added that a person can be born with one of the changes in their genes, speeding up the process by ten or twenty years. He told the Committee he would like to add to Shodair's laboratory equipment so they can further their cancer studies.

John Flink, Montana Hospital Association (MHA), spoke in support of the bill. He told the Committee it has been a number of years since there was an increase in the fees. This increase would allow them to take advantage of new scientific resources available.

Pat Melby, Montana Medical Association, Montana Association of Physicians, highly urged support for SB 275.

Mona Jamison, Lobbyist for Shodair Children's Hospital, asked the Committee to look at the charts on page 3 and 4 in her handout. She reviewed the figures, what they cover and the importance of the cancer program.

EXHIBIT (phs24a04)

{Tape: 2; Side: B; Approx. Time Counter: 7 - 10}

Opponents Testimony:

Mary Anne Guggenheim, M.D., spoke in opposition.

EXHIBIT (phs24a05)

{Tape: 2; Side: B; Approx. Time Counter: 10 - 27}

Frank Cote, America's Health Insurance Plans, thought the increase in funding was wrong, as insurance is getting expensive because of costs being added on to the policies. He asked the Committee to look at the language in the bill. He did not agree that all the testing for the State of Montana should be done at

Shodair. He thought sending it out of state would be more cost effective.

Jackie Lenmark, American Insurance Association, questioned the funding because of additional cost to policy holders. She asked the Committee to look carefully at how the bill is drafted and referred to funding regarding the general fund.

Grey Van Horssen, State Farm Insurance Companies, said this is a good concept but opposed the bill because everyone would be paying for it.

Don Allen, Montana Association of Insurance was concerned over the majority of insured. He said this bill continues to add on to the consumer's bill. He thought the bill should go to the full body of the Legislature for funding. He also thought there could be a conflict of privacy concerning genetic testing in relation to criminal investigations.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 6.6}

Informational Testimony:

JoAnn Dotson, Shodair Children's Hospital, manages the in-house genetics program. She gave the Committee background information regarding organizations in states providing services.

EXHIBIT (phs24a06)

Tanya Ask, Blue Sheild Blue Cross Montana, pointed out page one of the bill, lines 13 and 14, saying this is the assistance base. She suggested it be funded by the general fund.

James Senterfitt, New West Insurance, said they are stewards for 33,000 Montanans. He also suggested that general fund financing would make the program available to more people.

{Tape: 3; Side: A; Approx. Time Counter: 6.6 - 9.7}

Questions from Committee Members and Responses:

SEN. CROMLEY asked **Ms. Ask** about expanding the base and the insurance plans which were not included. **Ms. Ask** told him the State of Montana has jurisdiction. Several insurance subdivisions are included. Some entities are self insured and some are not.

SEN. WEINBERG asked **Mr. Casey** about the funding. **Mr. Casey** said the State used part of the funding for three physicians within the program. The Department had questioned this.

SEN. WEINBERG wanted to know if, on page 2 of the blue exhibit, whether the amount listed next to Shodair was the contracted amount. **Mr. Dotson** told him the funding had decreased over the years. Money had been received from general funding but was decreased.

SEB, WEINBERG had trouble following the funding and asked if they did this with other funding. **Ms. Jamison** referred him to line 15 and 16 of the bill where it says it is to fund the voluntary genetics program. The money went directly there and can be used only for that program. The fee was originally established for the program in 50-19-211. On page three (of the blue exhibit) due to the decreases of the block grant to the State of Montana, those funds help support three salaries. The money that was supposed to go to the genetic program went to the general fund. The section says this was to fund the program but because of accounting, it went to the general fund. The chart shows this.

Closing by Sponsor:

SEN. SCHMIDT closed, saying several issues need to be resolved. She said they need to expand what is going on so there is no harm to the program.

EXECUTIVE ACTION ON SB 153

Motion/Vote: **SEN. O'NEIL** moved that SB 153 DO PASS. Motion carried unanimously. **SEN. COBB** voted aye by proxy.

EXECUTIVE ACTION ON SB 156

Motion: **SEN. WEINBERG** moved that SB 156 DO PASS.

Discussion: **SEN. ESP** had an amendment to the bill. He moved page 1, line 18, to change the percentage from 150 percent to 175 percent, to include more kids.

SEN. CROMLEY thought this narrowed the pool.

SEN. WILLIAMS opposed that option.

SEN. O'NEIL supported the amendment since it was coming from the tobacco fund.

Motion/Vote: SEN. ESP moved that SB 156 BE AMENDED BY CHANGING PAGE 1, LINE 18, "150%" TO "175%". Motion failed 4-5 by roll call vote with SEN. COBB, SEN. ESP, SEN. GRIMES, and SEN. O'NEIL voting aye. SEN. COBB voted aye by proxy. SEN. SCHMIDT voted no by proxy.

Motion/Vote: SEN. CROMLEY moved that SB 156 BE AMENDED ON LINE 2, PAGE 2 AFTER "AND SUSTAINABLE" TO STRIKE "INCREASE" AND INSERT "SET." Motion carried 8-1 by voice vote with SEN. WEINBERG voting no. SEN. COBB and SEN. SCHMIDT voted aye by proxy.

Discussion: SEN. GRIMES explained amendment SB015601.adn.

[EXHIBIT](#) (phs24a07)

Motion/Vote: SEN. GRIMES moved that SB 156 BE AMENDED WITH SB015601.adn. Motion carried 7-2 by voice vote with SEN. ESP and SEN. O'NEIL voting no. SEN. COBB and SEN. SCHMIDT voted aye by proxy.

Motion/Vote: SEN. GRIMES moved that SB 156 DO PASS AS AMENDED. Motion carried 7-2 with SEN. ESP and SEN. O'NEIL voting no. SEN. COBB and SEN. SCHMIDT voted aye by proxy.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 4.5}

EXECUTIVE ACTION ON SB 203

Motion: SEN. WILLIAMS moved that SB 203 DO PASS.

Motion: SEN. ESP moved that SB 203 BE AMENDED WITH SB020302.asb.

[EXHIBIT](#) (phs24a08)

Discussion: SEN. CROMLEY explained this was SEN. LIND'S amendment defining contraceptives.

Substitute Motion: SEN. GRIMES made a substitute motion that amendment SB020302.asb BE TABLED.

Discussion: SEN. GRIMES discussed mandates and decreasing the portability of insurance products to consumers in Montana. He said people are being driven out of affordable insurance so they have to go to CHIPS, or Medicaid.

{Tape: 3; Side: A; Approx. Time Counter: 4.5 - 9.5}

SEN. ESP thought the Committee should change the way they look at health insurance and begin to look at health savings accounts and high deductible plans. This way people have a choice of spending on their insurance and have less mandates.

SEN. WEINBERG supported the bill, as it addresses and recognizes the contraception part of health services. He said there are a lot of reasons for health care crisis and this wasn't one of them. He said the crisis was because the way business is done in the companies and corruption in the pharmaceuticals. He said there are a lot of reasons out there why we are engrossed with health care insurance and this bill was not one of them.

SEN. WILLIAMS did not think the bill would break the insurance companies and added that it was a long time coming. She said the Committee should support it.

SEN. O'NEIL reminded the Committee about the testimony that 50 percent of the pregnancies are unplanned and that 50 percent of the ladies were using contraceptives. He didn't think it made much difference in the long run if they were provided contraceptives or not. He wasn't in agreement with placing any more mandates on the insurance companies.

SEN. MOSS agreed with **SEN. WILLIAMS** and **SEN. WEINBERG** and said her notes showed that several young women talked very eloquently about the importance of access to contraception. She also had many e-mails from women around the State and felt their voices were very important.

SEN. GRIMES withdrew his motion to table amendment SB020302.asb.

Motion/Vote: **SEN. CROMLEY** moved that SB 203 BE AMENDED WITH SB020302.ASB. Motion carried unanimously by voice vote.

Motion: **SEN. WEINBERG** moved that SB 203 DO PASS AS AMENDED.

Substitute Motion/Vote: **SEN. GRIMES** made a substitute motion that SB 203 BE AMENDED. Substitute motion carried unanimously by voice vote.

[EXHIBIT](#) (phs24a09)

Motion: **SEN. MOSS** moved that SB 203 DO PASS AS AMENDED.

Discussion: **SEN. GRIMES** wanted to know if the Legislature has always applied mandates to both group insurance, as well as individual disability policies. **Ms. Ask** told him that, under

Montana law, disability insurance means health insurance. The amendment, which was added, takes care of disability income.

Vote: Motion carried 6-3 by with SEN. ESP, SEN. GRIMES, and SEN. O'NEIL voting no. SEN. SCHMIDT and SEN. COBB voted aye by proxy.

EXECUTIVE ACTION ON SB 249

Motion: SEN. CROMLEY moved that SB 249 DO PASS.

Motion: SEN. ESP moved that SB 249 BE AMENDED WITH SB024901.adn.

EXHIBIT (phs24a10)

Discussion: SEN. ESP explained the amendment which addressed concerns that came up during the bill's hearing.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. ESP moved that SB 249 DO PASS AS AMENDED.

Motion carried unanimously by voice vote. SEN. SCHMIDT and SEN. COBB voted aye by proxy.

ADJOURNMENT

Adjournment: 6:20 P.M.

SEN. BRENT R. CROMLEY, Chairman

RITA TENNESON, Secretary

BC/rt

Additional Exhibits:

EXHIBIT ([phs24aad0.PDF](#))